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LETTER DATED 16 MAY 1994 FROM THE PERMANENT REPRESENTATIVE OF BOSNIA AND HERZEGOVINA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

In response to the Secretary-General's report of 9 May 1994 (S/1994/555), we wish to make the following corrections, comments and observations. The facts, statements and observations outlined here have been given on the basis of information and positions provided by the Presidency of the Republic of Bosnia and Herzegovina and the Prime Minister's Office.

1. Security Council resolution 836 (1993), paragraphs 5 and 6, and resolution 824 (1993), paragraph 4, respectively, read as follows:

> "5. Decides to extend to that end the mandate of UNPROFOR in order to enable it, in the safe areas referred to in resolution 824 (1993), to deter attacks against the safe areas, to monitor the cease-fire, to promote the withdrawal of military or paramilitary units other than those of the Government of the Republic of Bosnia and Herzegovina and to occupy some key points on the ground, in addition to participating in the delivery of humanitarian relief to the population as provided for in resolution 776 (1992) of 14 September 1992;
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> "6. Affirms that these safe areas are a temporary measure and that the primary objective remains to reverse the consequences of the use of force and to allow all persons displaced from their homes in the Republic of Bosnia and Herzegovina to return to their homes in peace, beginning, inter alia, with the prompt implementation of the provisions of the Vance-Owen plan in areas where those have been agreed by the parties directly concerned;"
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> "4. Further declares that in these safe areas the following should be observed:
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> "(a) The immediate cessation of armed attacks or any hostile act against these safe areas, and the withdrawal of all Bosnian Serb military or paramilitary units from these towns to a distance wherefrom they cease to constitute a menace to their security and that of their inhabitants to be monitored by United Nations military observers;

"(b) Full respect by all parties of the right of the United Nations Protection Force (UNPROFOR) and the international humanitarian agencies to free and unimpeded access to all safe areas in the Republic of Bosnia and Herzegovina and full respect for the safety of the personnel engaged in these operations;".

2. We note in particular that the provisions of paragraph 8 of resolution 824 (1993) that would provide for a revision of the mandate outlined in the relevant resolutions, have not been met:

"Declares also that arrangements pursuant to the present resolution shall remain in force up until the provisions for the cessation of hostilities, separation of forces and supervision of heavy weaponry as envisaged in the peace plan for the Republic of Bosnia and Herzegovina, are implemented".

3. The Government of the Republic of Bosnia and Herzegovina does not consider the situation in and around the safe areas of Srebrenica and Zepa as satisfactory. Although Serbian attacks have substantially diminished, intermittent Serbian assaults, none the less, to continue causing loss of life, material destruction and terrorizing the civilian population. Serbian besieging forces continue to impede humanitarian deliveries and the delivery of essential services like water and electricity. Paraphrasing the report of the mission of the Security Council members visiting Srebrenica pursuant to the authority of resolution 819 (1993), Srebrenica is described as essentially an "open-air prison". We are disappointed that this ongoing grave situation in Srebrenica and Zepa is not more fully outlined in the Secretary-General's report of 9 May 1994.

4. Consequently, it is evident that the mandate(s) outlined in resolutions 819 (1993), 824 (1993) and 836 (1993) have not been adequately effectuated in Srebrenica and Zepa (at least as far as the civilian population is concerned) and that the de facto demilitarization of these two safe areas under UNPROFOR's guidance has not brought about the necessary conditions. The civilian population continues to suffer various threats and deprivations, whether because of UNPROFOR's incapacity or ineffectiveness or the effective disarming of the Bosnian defenders.

5. We are most disturbed that the Secretary-General's report fails to make any mention of the Serbian failure to honour the Gorazde "safe zone" as defined by resolutions 824 (1993) and 913 (1994) or to comply with the United Nations/North Atlantic Treaty Organization (NATO) 3-kilometre and 20-kilometre "exclusion zones". Also of concern is that, while paragraph 29 (c) of the Secretary-General's report singles out a particular reference in resolution 913 (1994), it should also have referenced paragraphs 3 and 5, which respectively condemn "the shelling and attacks by the Bosnian Serb forces against the safe area of Gorazde as defined in resolution 824 (1993) and demands the withdrawal of these forces and their weapons to a distance to be agreed by UNPROFOR wherefrom they cease to constitute a threat to the status of Gorazde as a safe area" and demand "the immediate release of all United Nations personnel still held by the Bosnian Serb forces;".

6. With reference to paragraph 10 of the Secretary-General's report, it should be noted that failure to use the mandate given can also have a negative impact on the relationships of the parties with UNPROFOR, especially the legitimate and democratically elected Government of the Republic of Bosnia and Herzegovina as well as on the credibility of UNPROFOR and NATO. Cumbersome mechanisms and lack of will are inconsistent with the interests of the civilian population in question and the search for a durable peace. Succumbing to threats and hostage-taking will further neutralize the effectiveness of mechanisms available to the international community in the Republic of Bosnia and Herzegovina, and will spawn similar and more blatant actions.

7. Certain references in the report attempt to delegitimize the Army of the Republic of Bosnia and Herzegovina and, unfortunately, once again go back to equating the victim and the aggressor, in particular paragraph 13. These allegations do not reflect the facts and are morally flawed. The Government and the Army of the Republic of Bosnia and Herzegovina have abided by all agreements committed to, including those calling for the withdrawal and/or storage of heavy weapons by UNPROFOR. The innocent efforts of individual civilians in the besieged area of Srebrenica to retrieve their light weapons cannot in any way be compared to the systematic attempts of the Serbian forces, in particular around Sarajevo, to retake heavy weapons from UNPROFOR storage or control. Weapons have been retaken by Serbian forces by means of simple thievery, threats and even the taking of United Nations personnel hostage.

8. Serbian forces throughout the conflict have undertaken the harassment and intimidation of United Nations personnel in the Republic of Bosnia and Herzegovina in the absence of a robust UNPROFOR mandate and long before the introduction of close-air support. It should be remembered that resolutions 770 (1992), 819 (1993), 824 (1993), 836 (1993), 913 (1994) and others were adopted as reactions to such unacceptable actions.

9. We disagree with the tone of paragraph 14 and the statements contained therein. The Republic of Bosnia and Herzegovina does not expect UNPROFOR to fight its war. At the same time, two factors must be taken into consideration: (a) it is impossible to separate the civilian population and their territory when indiscriminate attacks are prepared by advancement of Serbian forces then launched (Serb conquests of territory have meant expulsion, imprisonment or murder of the civilians on that territory) and (b) it is inconsistent and cynical implicitly or explicitly to demean the Government of the Republic of Bosnia and Herzegovina by saying that we expect the United Nations to fight our war when in fact the arms embargo applied against the Republic of Bosnia and Herzegovina has at least in part been justified on the basis of the United Nations mission in the Republic of Bosnia and Herzegovina and the United Nations defence of the safe areas.

10. With respect to the issue raised in paragraph 16 of whether the safe-area concept was intended to protect only populations or populations and territory, the statement of the Permanent Representative of France, a co-sponsor of the resolution (made in explanation of vote before the vote on resolution 836 (1993) of 4 June 1993 (S/PV.3228)) is telling of the intent of the Security Council:

"The draft resolution addresses an immediate, vital humanitarian objective: ensuring the survival of civilian populations in the safe areas. It also addresses a paramount political objective: maintaining the territorial basis needed for the development and implementation of the peace plan for Bosnia and Herzegovina.*

"In that connection, I want to stress that the designation and protection of safe areas is not an end in itself, but only a temporary measure; a step towards a just and lasting political solution. This must be understood as a positive contribution to the process begun by the Vance-Owen plan, which remains the basis for any settlement.

"I wish also to note the realistic and operational nature of the draft resolution. Through changes in and the strengthening of UNPROFOR, its provisions are aimed at ensuring the protection of the safe areas by deterring attacks against them, by monitoring the cease-fire, by promoting the withdrawal of military units other than those of the Government of the Republic of Bosnia and Herzegovina, and by occupying several key points on the ground. Those provisions would be implemented in parallel with the mandate established in resolutions 770 (1992) and 776 (1992) and would not affect UNPROFOR's current task of protecting the delivery of humanitarian aid.

"To carry out the new mandate, the draft resolution explicitly provides for the possibility of using force to respond to bombardments against the safe areas, to armed incursions into them* or to any deliberate obstacles to the freedom of movement of UNPROFOR or of protected humanitarian convoys. It also provides for the use of air power within and around the safe areas in order to support UNPROFOR in the fulfilment of its mandate, if necessary."

11. With respect to paragraph 15 of the Secretary-General's report, fully having in mind the constraint of troop resources available to UNPROFOR, we find it inappropriate that "UNPROFOR has attempted to redefine the safe-area concept". This is a political issue to be determined by the Security Council and not UNPROFOR. Another troubling aspect of paragraph 15 is that so-called "even-handedness" is given higher priority than the protection of civilian lives.

12. In view of the expressed position outlined in the Secretary-General's report that it is UNPROFOR's mandate only to protect the civilian population in the safe areas and not the territory/space of the safe areas, it is more than ever imperative that paragraph 4 of resolution 824 (1993) and paragraph 5 of resolution 836 (1993) be fully observed and not diminished in order to allow the government forces to defend the territory and sovereignty as well as the civilian population of the safe areas and their surroundings.

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* Emphasis added by the Permanent Representative of Bosnia and Herzegovina.

13. Clearly, the past failures and continued incapacity or lack of requisite will even to defend the civilian population (as most recently exhibited in Gorazde, Tuzla and even Bihac) make any diminution of the right of the government forces to defend the safe areas (territory, sovereignty and population) unjustifiable and dangerous. We also note that subjecting the civilian populations of the safe areas to the lifestyle of "open-air prison camps" (as in Srebrenica) is not an acceptable alternative. Attempts to alter the terms of resolutions 819 (1993), 824 (1993) and 836 (1993) to provide for an extended period of unilateral demilitarization and allowing for the continuation of the status quo is clearly inconsistent with the previously quoted paragraph 6 of resolution 836 (1993) and paragraph 8 of resolution 824 (1993). This would also further the creation of non-"viable communities" in the safe zones as pointed out in paragraph 26 of the latest Secretary-General's report.

14. It is not possible to demilitarize a small urban congested safe area while leaving surrounding, more rural communities to their own self-defence. This would have the effect of decisively weakening the defensive position of the government forces; an untenable military situation; loss of surrounding territories; and ever-increasing threat to civilians not directly covered by the "safe-zone" designation. Any bisecting of government operational and supply lines by UNPROFOR-defined demilitarization zones would have the effect of UNPROFOR in fact aiding the Serbians and taking a side in this conflict against the victim and government forces.

15. The current and previous Secretary-General's reports, which term "provocative" actions of the defence forces of Bosnia and Herzegovina, in our view, have unwittingly legitimized and encouraged Serbian aggression against the safe areas by providing political pretexts. We caution the Secretary-General and the relevant UNPROFOR officials about this unfortunate consequence; and emphasize, especially in view of the sovereign and unabridged right and responsibility of the Army of the Republic of Bosnia and Herzegovina for defence, and in view of paragraphs 7 and 8 above the explicit provisions of resolution 824 (1993), paragraph 4, and resolution 836 (1993), paragraph 5. The Secretary-General may not be in agreement with some or all of these specific terms of resolutions 824 (1993) and 836 (1993), and there may be a myopic desire to limit further our right to self defence, but the use of the terms "provocation", "provoking", or "provocative" is not consistent with the terms of resolutions 819 (1993), 824 (1993) and 836 (1993), is counterproductive and may unwittingly pose a threat to the safety of the very civilian population in question.

OBSERVATIONS

16. The Secretary-General's report proposes that UNPROFOR's scope of responsibility within the safe areas be limited to only the theoretical protection of the civilians within such safe areas. By definition, that means that the Government of the Republic of Bosnia and Herzegovina would be responsible for defending the actual territory in and around the safe zones as well as the remainder of the civilian population, the territorial integrity and sovereignty of the Republic. At the same time, the Secretary-General's report proposes that the capacity of the Republic's Government be in fact further and

decisively reduced in carrying out the above enlarged responsibilities by negatively modifying relevant provisions of resolutions 819 (1993), 824 (1993) and 836 (1993). Obviously, these two proposals of the report are inconsistent and lead to divergent conclusions.

17. In fact, the Security Council must seek a way in which to overcome the already serious inconsistency/gap created by the de facto arms embargo applied to only the Army of the Republic of Bosnia and Herzegovina which limits our Government's capacity for self-defence while not providing for the international mechanisms comprehensively to defend all our civilian population, territorial integrity and sovereignty. We once again inquire why resolution 838 (1993) has not been implemented.

18. At worst, the Government's capacity for defence should not be further hindered and there should be no modification of paragraphs 4 of resolution 824 (1993) and 5 of resolution 836 (1993). Otherwise, there would be a decisive and tragic intervention against the Army of the Republic of Bosnia and Herzegovina by the UNPROFOR forces.

19. The resolution 913 (1994) safe zone and the United Nations/NATO exclusion zone around Gorazde should be fully and immediately implemented. The Secretariat and UNPROFOR must take appropriate action or call upon a willing NATO to compel the mandated Serbian withdrawal.

20. The "safe zones" are already delineated by resolutions 819 (1993), 824 (1993) and 836 (1993) as the towns and surrounding areas. Safe zones should not be delineated to accept the consequences of Serbian onslaughts and effectively to legitimize the fruits of aggression. Clearly, when resolutions 819 (1993), 824 (1993) and 836 (1993) were adopted, the Security Council intended to have all the towns and their surrounding areas that were under Government control to be included within the safe zones (at least in the case of the besieged areas of Gorazde, Srebrenica, Zepa, Bihac and Sarajevo). Otherwise, we would have to come to the cynical conclusion that the Security Council was willing to tolerate further Serbian incursions, onslaughts and even killing of civilians up to some arbitrary line within the already besieged areas.

21. Because of the unique situation in and around Sarajevo, the Government of the Republic of Bosnia and Herzegovina would agree to consider demilitarization along the objective and non-contrived delineations of the 10 <u>opstinas</u> of Sarajevo.

22. Any other proposal contained in the Secretary-General's report should be viewed within the context of our Government's rights and duties as a defender of all our population, territory and Republic, and with the proper deference to our status as a Member of the United Nations, to the Charter of the United Nations and, in particular, to Article 51. Other proposals can be evaluated and discussed on a bilateral basis between the Government of the Republic of Bosnia and Herzegovina and UNPROFOR.

23. We remain open to constructive proposals, those that will preserve lives, be consistent with our territorial integrity and sovereignty and will substantively promote the peace process.

May I ask for your kind assistance in circulating this letter as a document of the Security Council.

(Signed) Muhamed SACIRBEY
Ambassador and Permanent Representative